

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Mark D. Soll
Serial No. : 10/826,105
For : Antiparasitical Agents and Methods for Treating, Preventing
and Controlling External Parasites in Animals
Filed : April 16, 2004
Examiner : LEVY, NEIL S
Group Art Unit : 1615
Confirmation No. : 9262

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**AMENDMENT AND RESPONSE TO OFFICE ACTION UNDER
37 C.F.R. § 1.111, RECORD OF INTERVIEW AND REQUEST FOR INTERVIEW**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Office Action mailed January 28, 2008, setting a three month term for reply. The Commissioner is hereby authorized to charge any required fee for this paper, or credit any overpayment in fees for this paper, to Deposit Account No. 50-0320.

Amendments to the claims begin on page 4 of this paper.

Remarks begin on page 21 of this paper.

RECORD OF INTERVIEW

This is to record matters discussed during the January 9, 2008 telephonic interview among Examiner Neil S. Levy (Primary Examiner) and Applicant's representative Howard C. Lee (Patent Agent, Reg. No. 48,104). Examiner Levy is thanked for the many courtesies extended during the interview.

The restriction was discussed with regard to the last issued Office Action. Howard Lee affirmed the election of Group VIII with N-aryl pyrazole of formula II, as shown in claim 1. The Examiner confirmed that the premix, claims 26-29 and 33 with formula (II), with R^2 , R^3 , R^4 , Ar and n as indicated in the election of 12/12/07 would be examined.

Accordingly, a summary and record of the interview is provided herewith.

STATEMENT OF COMMON OWNERSHIP

Please accept this statement of common ownership which asserts that Merial Limited is the common owner of U.S. Patent No. 7,262,214 (Application No. 10/374,627, “the ‘214 patent”) and U.S. Application No. 10/826,105 (“the ‘105 application”).

The Office Action dated January 28, 2008 included a rejection of claims 26-29 and 33 as being unpatentable over SOLL *et al.* (U.S. Patent No. 7,262,214) under 35 U.S.C. §103(a).

While it is not agreed that obviousness has been established by the Examiner for the abovementioned claims, the rejection would be rendered moot if the ‘214 patent were ineligible for use as prior art.

Pursuant to 35 U.S.C. § 103(c), MPEP 706.02(l)(1) and MPEP 706.02(l)(2), the burden resides with the applicants to show that the ‘214 patent and the present application were commonly owned at the time the claimed invention was made or subject to an obligation of assignment that would establish common ownership.

When the ‘105 application was filed on April 16, 2004, both the ‘105 application and the ‘214 patent listed Mark D. Soll and Albert Boeckh as the inventors and both applications had assigned their respective inventions to Merial Limited. The assignment of the ‘214 patent was recorded on February 26, 2003 on Reel 014407/Frame 0816. The assignment of the ‘105 application was recorded on April 16, 2004 on Reel 015951/Frame 0385. Therefore, the appellants believe that common ownership has been established and as such U.S. Patent No. 7,262,214 is disqualified as prior art.